IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Bail Appl..No. 6163 of 2007()

CRIME NO. 394/07 OF KOYILANDY POLICE STATION

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PETITIONER/1ST ACCUSED:

K.P. SREEDHARAN, S/O. KELAPPAN,
AGED 56 YEARS, S.J. NIVAS, PANTHALAYANI AMSOM,
KOTHAMANGALAM DESOM, P.O. KOYILANDY,KOZHIKODE.

BY ADV. SRI.VINOD SINGH CHERIYAN
SRI.R.SUDHISH

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE CIRCLE INSPECTOR OF POLICE,
KOYILANDY POLICE STATION, KOZHIKODE DISTRICT
THROUGH THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6163 of 2007

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Dated this the 29th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused. He faces allegations, inter alia, under Section 392 r/w. 34 I.P.C. Petitioner is the Secretary of the Vyapari Vyavasayi Ekopana Samithi. There was a strike call by the Samithi. Some of the traders did not heed to the strike call. Enraged by the said act of the traders, the petitioner is alleged to have taken law into his own hands, stopped the vehicle belonging to one of the traders, which was proceeding along with a consignment of articles and removed the articles to the office of the Samithi. Thereafter, it is submitted that, the matter was reported to the police and the Sales tax authorities. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. According to the petitioner he was only helping the authorities in preventing evasion of tax. Tax had not been paid in respect of some of the articles and therefore the

vehicle had to be stopped. This in short is the contention raised. The learned counsel prays that anticipatory bail may be granted to the petitioner.

3. The learned Prosecutor opposes the application. He submits that the conduct attributed to and admitted by the petitioner does certainly demand firm action. A person, who does not co-operate with the strike call, was taken to task by illegal obstruction and removal of property that belonged to him. The learned Prosecutor submits that in any view of the matter the conduct of the petitioner, removing the articles from the vehicle which was stopped to his premises, must meet with consequences in law.

4. I find merit in the opposition by the learned Prosecutor. I shall not embark on a detailed discussion on merits about the acceptability of the allegation raised or the credibility of the data collected. I shall not also embark on a detailed discussion as to what precisely is the nature of the crime committed also. The conduct of the petitioner is totally unjustified. For non-co-operation for the strike called by the petitioner, his admitted conduct reveals that, movement of the vehicle was obstructed and the articles were removed to his premises. I am not satisfied that this is a fit case where the extra ordinary equitable discretion under section 438

Cr.P.C. can or ought to be invoked in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed.

(R. BASANT)
Judge

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